

THE RIGHT TO FARM

THE FITCHBURG AGRICULTURAL COMMISSION SUPPORTS THE RIGHT TO FARM IN FITCHBURG

The State of Massachusetts and the City of Fitchburg protect the Right to Farm, through state law (see below) and Fitchburg's Right to Farm By-law (next page).

The protection of farming and agriculture in Massachusetts is a state priority. (See Mass. Farmland Action Plan, <https://www.mass.gov/info-details/massachusetts-farmland-action-plan>). Massachusetts farmland is under intense development pressure, since it is the easiest land to develop into residential and commercial uses. But there is a finite amount of "prime agricultural soil" in Massachusetts; once this land is developed it is lost forever. Fitchburg still has some prime agricultural soil in agricultural production, although hundreds of acres have been lost to residential development in recent decades.

What can we do to reduce the loss of Fitchburg's farms and farmland?

1. Support local farms and buy local food;
2. Make sure the Agricultural Commission can review all Chapter 61A Notices to develop Fitchburg farmland, since Notice to the Agricultural Commission is not required;
3. If you live in a rural part of Fitchburg, help your neighbors to understand that the right to farm means that farmers can engage in all agricultural activities allowed by Mass. Law and Fitchburg's By-law.

MASSACHUSETTS RIGHT TO FARM LAW

Mass. General Laws, Chapter 128 FARMING

Section 1A. "Farming" or "agriculture" shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Mass. General Laws, Chapter 40A ZONING

Section 3. No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, ...

See Fitchburg's Right to Farm By-law on the following pages.

ARTICLE I
Right to Farm
[Adopted 9-20-2005 by Ord. No. 244-05]

§ 92-1. Purpose and intent.

- A. The purpose and intent of this article is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, § 3, Paragraph 1; Chapter 90, § 9; Chapter 111, § 125A; and Chapter 128, § 1A. We the citizens of Fitchburg restate and republish these rights pursuant to the City's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution (Home Rule Amendment).
- B. This article encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the City of Fitchburg by allowing agricultural uses and related activities to function with minimal conflict with abutters and City agencies. This article shall apply to all jurisdictional areas within the City.

§ 92-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

FARM — Shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

FARMING or AGRICULTURE — Or their derivatives:

- A. Shall include, but not be limited to the following:
 - (1) Farming in all its branches and the cultivation and tillage of the soil.
 - (2) Dairying.
 - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities.
 - (4) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations.
 - (5) Raising of livestock including horses.
 - (6) Keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.
- B. "Farming" shall encompass activities including, but not limited to, the following:
 - (1) Operation and transportation of slow-moving farm equipment over roads within the City;

- (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- (6) Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- (7) On-farm relocation of earth and the clearing of ground for farming operations.

§ 92-3. Right-to-farm declaration.

The right to farm is hereby recognized to exist within the City of Fitchburg. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this article are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm article shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.